



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/169980

PRELIMINARY RECITALS

Pursuant to a petition filed November 6, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Community Living Alliance ["CLA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 29, 2015.

The issue for determination is whether CLA may reduce petitioner's MA Personal Care Program ["MAPC"] hours from 6.75 hours per day to 4.75 hours per day.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] (not present at
December 29, 2015 Hearing)

c/o [REDACTED]
[REDACTED]
[REDACTED]

Represented by:

[REDACTED], petitioner's mother &
Legal Guardian
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED], Medicaid Program Supervisor
Community Living Alliance
1414 MacArthur Road
PO Box 8028
Madison, WI 53708-8028

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (24 years old) is a resident of Dane County, Wisconsin.
2. Petitioner was receiving 6.75 hours per day from MAPC.
3. By a letter dated November 4, 2015 CLA informed petitioner that effective November 18, 2015 her MAPC would be reduced to 4.75 hours per day based on an annual assessment using the Wisconsin Department of Health Service's ["DHS"] Personal Care Screening Tool ["PCST"].

DISCUSSION

MAPC provides personal care services funded by MA. These services include bathing, dressing, grooming, bathroom assistance, housekeeping, laundry, meals and nurse-delegated tasks such as mechanical lift transfers, G-tube feeding, catheter care, etc. A Registered Nurse ["RN"] completes an assessment using the State of Wisconsin's Personal Care Screening Tool ["PCST"]. The PCST determines the services and hours authorized by the State. If eligible, services are 100 percent funded by MA. See, online http://clanet.org/ee/medical_assistance_personal_care_program

This matter must be decided by a preponderance of the credible evidence. Wis. Admin. Code § 3.09(4) (February 2013). This is a reduction of existing services so the burden is on CLA to provide sufficient evidence to support the reduction. CLA has failed to do so.

The only evidence provided by CLA was a 1 page document entitled *Explanation of Action for 2016 PSCT for [petitioner]* along with testimony regarding that document. Neither the 2015 nor the 2016 PCSTs were provided. Petitioner's mother testified certain aspects of the document were "completely false" and "couldn't be more false." In the absence of both the 2015 PCST and the 2016 PCST it is not possible to ascertain whether or not the reduction in MAPC hours is justified. Therefore, CLA may not reduce petitioner's MAPC hours.

CONCLUSIONS OF LAW

For the reasons discussed above, CLA may not reduce petitioner's MAPC hours from 6.75 hours per day to 4.75 hours per day.

THEREFORE, it is

ORDERED

That this matter be REMANDED to CLA and that CLA not reduce petitioner's MAPC hours from 6.75 hours per day to 4.75 hours per day effective November 18, 2015. This action must be completed within 10 days for the date of this *Decision*.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 20th day of January, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 20, 2016.

Community Living Alliance
Division of Health Care Access and Accountability